

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA**

Dea'Shawn Harrison,

Plaintiff,

v.

Amanda Leviner, *Magistrate Judge*,

Defendant.

Case No. 9:23-01116-RMG

ORDER AND OPINION

This matter is before the Court on the Report and Recommendation of the Magistrate Judge, recommending the complaint be summarily dismissed. For the reasons set forth below, the Court adopts the Report and Recommendation.

In accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(a), D.S.C., the matter was referred to a United States Magistrate Judge for preliminary review. The Magistrate Judge issued a Report and Recommendations outlining the issues and recommending that the Court summarily dismiss Plaintiff's complaint without prejudice, without leave to amend, and without issuance and service of process. (Dkt. No. 14). According to the Magistrate Judge, Plaintiff's claims against Judge Amanda Leviner, a state magistrate judge, should be dismissed because she is entitled to judicial immunity. Under *Heck v. Humphrey*, Magistrate Judge recommended dismissing Plaintiff's claims to the extent the claims request monetary damages for his robbery conviction because *Heck* requires a plaintiff to prove that the conviction or sentence has been reversed on direct appeal and Plaintiff here has not shown that. Lastly, the Magistrate Judge concluded that Plaintiff's claims attempting to assert sovereign-citizen type theories are subject to summary dismissal as they are frivolous.

Attached to the Magistrate Judge's Report and Recommendation was a notice advising Plaintiff of his right to file written objections to the Report within fourteen days of receiving a copy. To date, no objections have been filed.

The Magistrate Judge makes only a recommendation to the Court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the Court. *Mathews v. Weber*, 423 U.S. 261 (1976). The Court is charged with making a de novo determination only of those portions of the Report to which specific objections are made, and the Court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1). In the absence of specific objections, the Court reviews the matter only for clear error. *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (stating that “in the absence of a timely filed objection, a district court need not conduct a de novo review, but instead must ‘only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.’”) (quoting Fed. R. Civ. P. 72 advisory committee's note).

Here, because no objections were filed, the Court has reviewed the record, the applicable law, and the findings and recommendations of the Magistrate Judge for clear error. Finding none, the Court adopts and incorporates the Report and Recommendation (Dkt. No. 14) and dismisses this action without prejudice, without leave to amend, and without issuance and service of process.

AND IT IS SO ORDERED.

s/ Richard Mark Gergel
Richard Mark Gergel
United States District Judge

September 13, 2023
Charleston, South Carolina-